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**BEFORE THE PUBLIC UTILITIES COMMISSION  
OF THE STATE OF CALIFORNIA**

Order Instituting Rulemaking to Implement the California  
Renewables Portfolio Standard Program.

Rulemaking 04-04-026  
(Filed April 22, 2004)

**RESPONSE OF THE UNION OF CONCERNED SCIENTISTS TO THE  
PETITION OF THE CALIFORNIA WIND ENERGY ASSOCIATION AND THE  
GREEN POWER INSTITUTE FOR MODIFICATION OF DECISION 05-12-042:  
INTERIM OPINION ADOPTING METHODOLOGY FOR THE  
2005 MARKET PRICE REFERENT**

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Dated: July 17, 2007

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**I. INTRODUCTION**

In accordance with Rule 16.4 of California Public Utilities Commission’s (“Commission”) Rules of Practices and Procedure, and Administrative Law Judge Simon’s Ruling on Motion to Expedite issued on June 28, 2007, which set the response date at July 17, 2007, the Union of Concerned Scientists (“UCS”) respectfully submits this response to the Petition of the California Wind Energy Association (“CalWEA”) and the Green Power Institute (“GPI”) for Modification of Decision 05-12-042 (“Petition”), filed on June 25, 2007. UCS strongly supports the Petition, and agrees with CalWEA and GPI that, in consideration of recent legislative actions in California, it is timely and appropriate for the Commission to revisit Decision 05-12-042. In particular, UCS agrees with CalWEA and GPI that the Commission should modify the decision to include a greenhouse gas (“GHG”) adder in the 2007 Market Price Referent (“MPR”) and in successive MPRs for the Renewables Portfolio Standard (“RPS”) solicitations.

**II. DISCUSSION OF RESPONSE**

In Decision 05-12-042, the Commission declined to account for the greenhouse gas emissions in the MPR, but noted that it might revisit the issue “if and when these [greenhouse gas regulation] policy discussions are translated into regulatory programs or other sufficiently concrete market impacts.”<sup>1</sup> The Petition states that the enactment of AB 32 and SB 1368 by the California Legislature last year effectively transitioned the state from GHG policy discussions to “definitive, concrete law that authorized the

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<sup>1</sup> D.05-12-042 at 47-48.

creation of regulatory programs to curb GHG emissions.”<sup>2</sup> The Petition further states that “Because AB 32 and SB 1368 mandate the creation of a regulatory regime to control GHGs, the time has come to account for GHG emissions in the 2007 MPR for RPS solicitations.”<sup>3</sup> UCS agrees. In particular, the passage of AB 32 establishes a regulatory program that will impose real costs on the GHG emissions of a new combined cycle gas turbine (“CCGT”), the type of generator whose costs are used to calculate the MPR. Whether these incremental GHG costs are incurred directly by the CCGT generator or by the retail seller purchasing its output, they are material and should be incorporated into the MPR as soon as is practical.

The Petition proposes that the GHG adder adopted by the Commission in Decision 04-12-048 be incorporated into the MPR.<sup>4</sup> The Petition notes that the Commission currently considers identical GHG emission costs when evaluating the cost-effectiveness of energy efficiency programs, regular utility procurement solicitations of five years or greater, and new utility-owned resources.<sup>5</sup> UCS has reviewed the methodology advanced by CalWEA and GPI, and believes that the GHG adder proposed by these parties is appropriate, transparent, and fully consistent with the Commission’s treatment of GHG emission costs in other contexts. Furthermore, the proposed adder is advantageous because it can be simply and quickly incorporated into the 2007 MPR without requiring substantial amounts of additional analysis.

UCS anticipates that some parties may contend that the GHG adder proposed by the Petition should be rejected because the adder is too speculative or unknown. While it is indeed challenging to estimate the specific costs of GHG emissions that will result from a cap on said emissions, the costs of AB 32 are nonetheless real. It would be far preferable for the Commission to incorporate a conservative estimate of these costs into the MPR than to assume zero cost of GHG emissions until the actual costs of the AB 32 cap are known. Because the AB 32 cap will not take effect until January 1, 2012, several years will likely pass before the actual costs of GHG regulation are known. In the meantime, the Commission will evaluate numerous RPS contracts that propose to

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<sup>2</sup> Petition at 4.

<sup>3</sup> *Id.*

<sup>4</sup> Petition at 9-10.

<sup>5</sup> Petition at 5-7.

generate electricity well into the AB 32 compliance period. It does not seem accurate to evaluate these contracts using an MPR that does not include any assumed costs of GHG emissions.

The Petition's proposed GHG adder represents the Commission's current best estimate of the costs associated with GHG emissions, and is currently used by the Commission to evaluate resource decisions in multiple contexts. For the immediate purpose of establishing the 2007 MPR, the Commission should rely on this thoroughly vetted and widely applied set of values, rather than wait several years until the precise value of GHG costs that CCGTs will incur as a result of AB 32 regulations are known.

UCS recommends that the Commission modify the MPR using the Petition's proposed GHG adder on an interim basis. The Commission should revisit the MPR methodology if the value of the GHG adder established in Decision 04-12-048 is adjusted, or if updated estimates of the costs of AB 32 regulations are entered into the record at a later date. Given the ambitious GHG emissions reduction targets set by AB 32, UCS anticipates that subsequent estimates of GHG emissions costs will be higher than the values adopted in Decision 04-12-048. Therefore, UCS believes that the GHG adder adopted in Decision 04-12-048 represents a conservative estimate of the costs of GHG emissions under AB 32 regulations. As such, it is appropriate for the Commission to include the GHG adder in the MPR calculation on an interim basis and to revisit the MPR methodology if subsequent changes to the value of the GHG adder are warranted. UCS also believes that the Commission should consider more substantive changes to the MPR methodology in the future, and looks forward to discussing these changes at a later time.

By adopting the Petition's proposals, the Commission would improve the accuracy of the MPR and ensure that the GHG adder adopted in Decision 04-12-048 is consistently and fairly applied for all types of procurement decisions. UCS supports the Petition's request to modify the Findings of Fact in Decision 05-12-042 as follows:<sup>6</sup>

32. The greenhouse gas adder adopted in D.04-12-048 is an element of the long-term market price of electricity in California.

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<sup>6</sup> The Petition refers to D.04-12-050 in its proposed modifications to the Findings of Fact and Conclusions of Law of Decision 05-12-042. UCS believes that CalWEA and GPI intended to refer to D.04-12-048, the decision that adopted the GHG adder, and has changed the proposed modifications accordingly.

UCS also supports the Petition's request to modify the Conclusions of Law in Decision 05-12-042, with the following revision:

4. The greenhouse gas adder developed in D.04-12-048 should be an element of the MPR calculation for 2007. **Subsequent MPR calculations should incorporate any future changes to the value of the adder as more information becomes available.**

### **III. CONCLUSION**

For the foregoing reasons, UCS supports the Petition of CalWEA and GPI and urges the Commission to grant their request for modification of Decision 05-12-042.

Respectfully submitted,



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## CERTIFICATE OF SERVICE

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I, Cliff Chen, certify that I have, on this date, caused the foregoing RESPONSE TO THE PETITION OF THE CALIFORNIA WIND ENERGY ASSOCIATION AND THE GREEN POWER INSTITUTE FOR MODIFICATION OF DECISION 05-12-042: INTERIM OPINION ADOPTING METHODOLOGY FOR THE 2005 MARKET PRICE REFERENT to be served by electronic mail, or for any party for which an electronic mail address has not been provided, by U.S. Mail on the parties listed on the Service List for the proceeding in California Public Utilities Commission Docket Nos. R.04-04-026 and R.06-02-012.

I declare under penalty of perjury, pursuant to the laws of the State of California, that the foregoing is true and correct.

Executed on July 17, 2007 in Berkeley, California.



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Proceedings: R0404026 and R0602012  
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